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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/091,381

03/04/2002

Rick Rowe

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EXAMINER

LAstra, DANIEL

ART UNIT

PAPER NUMBER

3688

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DELIVERY MODE

08/13/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/091,381	<b>Applicant(s)</b> ROWE, RICK	
	<b>Examiner</b> DANIEL LASTRA	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 19-28 have been examined. Application 10/091,381 (METHOD AND APPARATUS FOR FACILITATING MONETARY AND COMMERCIAL TRANSACTIONS AND FOR PROVIDING CONSUMER REWARD PROGRAMS) has a filing date 03/04/2002 and is a continuation in part of 09497788 (02/03/2000)

### ***Response to Amendment***

2. In response to Final Rejection filed 10/31/2007, the Applicant filed an RCE on 04/04/2008, which cancel claims 1-18 and added new claims 19-28.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 19-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent, a method/process claim must (1) be tied to another statutory class of invention (such as a particular apparatus) (see at least *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (see at least *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972)). A method/process claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. Here the claims fail to

meet the above requirements because the steps are neither tied to another statutory class of invention (such as a particular apparatus).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 19, 21-24 and 26-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Fowler (US 2002/0026348).

Claim 19, Fowler teaches:

A method of facilitating consumer awards for financial transactions, comprising:  
defining a financial account belonging to a consumer, said financial account permitting said consumer to engage in a plurality of vendor transactions for goods or services using finances available from said account (see paragraph 34);

defining a plurality of transaction categories for transactions engaged in by said consumer relative to said account, each transaction category having one or more criteria for association of transactions therewith (see paragraphs 23-24);

associating at least one of two or more rewards programs with each of said transaction categories, said rewards programs offering said consumer rewards for transactions engaged in by said consumer relative to said account (see paragraph 24);

receiving information from one or more vendors regarding transactions engaged in by said consumer relative to said account;

associating information regarding said transactions with said transaction categories dependent upon a nature of the transaction relative to criteria for said financial transaction categories (see paragraph 24); and

determining one or more rewards available to said consumer for each financial transaction category dependent upon rules of the rewards program associated to each financial transaction category (see paragraph 24).

Claim 21, Fowler teaches:

transferring funds to said vendors for transactions engaged in by said consumer and debiting said consumer's financial account of said transferred funds (see paragraph 3).

Claim 22, Fowler teaches:

obtaining information from said consumer regarding said one or more rewards programs said consumer is a member of (see paragraph 94).

Claim 23, Fowler teaches:

wherein said financial account is generated by a first entity and wherein at least one of said rewards programs are offered by an entity other than the first entity (see paragraph 67).

Claim 24, Fowler teaches:

A method of facilitating consumer awards for financial transactions, comprising:

defining a plurality of financial accounts belonging to a consumer, said financial accounts permitting said consumer to engage in a plurality of vendor transactions for goods or services using finances available from said accounts (see paragraph 67);

defining a plurality of transaction categories for transactions for each one of said plurality of accounts transactions engaged in by said consumer relative to said accounts, each transaction category having one or more criteria for association of transactions therewith (see paragraphs 23-24);

associating at least one of two or more rewards programs with each of said transaction categories, said rewards programs offering said consumer rewards for transactions engaged in by said consumer relative to said accounts (see paragraph 24);

receiving information from one or more vendors regarding transactions engaged in by said consumer relative to said accounts (see paragraph 20);

associating information regarding said transactions with said transaction categories dependent upon a nature of the transaction relative to criteria for said financial transaction categories (see paragraph 24); and

determining one or more rewards available to said consumer for each financial transaction category dependent upon rules of the rewards program associated to each financial transaction category (see paragraph 24).

Claim 26, Fowler teaches:

transferring funds to said vendors for transactions engaged in by said consumer and debiting said consumer's financial account of said transferred funds (see paragraph 3).

Claim 27, Fowler teaches:

obtaining information from said consumer regarding said one or more rewards programs said consumer is a member of (see paragraph 67).

Claim 28, Fowler teaches:

wherein said financial account is generated by a first entity and wherein at least one of said rewards programs are offered by an entity other than the first entity (see paragraph 67).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fowler (US 2002/0026348) in view of Chancey (US 5,842,185).

Claims 20 and 25, Fowler fails to teach:

permitting said consumer to re-assign information regarding a particular transaction from one transaction category to another. However, Chancey teaches a system which allows a customer to change the transaction categories of previously made transactions using a transaction card, such as a credit card (see col 5, lines 30-35). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Fowler would allow users to change the transaction categories of previously made transactions using a transaction card, as

taught by Chancey in order that said users are able to take advantage of rewards assign to different transaction categories.

### ***Response to Arguments***

6. Applicant's arguments filed 04/04/2008 have been fully considered but they are not persuasive. The Applicant argues that the prior arts do not teach associating different rewards programs with a plurality of different categories of transactions associated with a financial account. The Examiner answers that Fowler teaches that the plurality of merchants defines their own rules of applying a reward to different transaction categories (see paragraph 24) and that a single transaction is used to receive a plurality of rewards (see paragraph 83). Therefore, contrary to Applicant's argument, Fowler teaches Applicant's claimed limitation.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Art Unit: 3688

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/

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August 11, 2008